REMARKS/ARGUMENTS

Claims 8-11, 23-26, and 29-35 are pending in the application.

Claim Rejections – U.S.C. §103

The Examiner rejected Claims 8-11, 23-26, and 32-35 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,312,160 (hereinafter "Wilbanks '160") in view of U.S. Patent No. 4,272,929 (hereinafter "Hanson '929"). The Examiner argued that Wilbanks '160 discloses the use of a concrete column 11 for vertical support of a building as shown in Figure 1 with column 11 planted in earth (not shown) below water 9. The Examiner further indicated that Wilbanks '160 included wood column 13 secured to a proximal end of column 11. The Examiner then concluded that Wilbanks '160 discloses the basic claimed vertical support system except for the use of reinforcing in the column and except for the use of a column bracket. The Examiner cited Hanson '929 as disclosing reinforcing 36 in concrete column 18 as well as column bracket 40 having a base 44 and depending arms 42 and being positioned at a proximal end of column 10. The Examiner then indicated that Hanson '929 disclosed that it is known to position another column 12 between the depending arms of column bracket 40 and concluded that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the system of Wilbanks '160 with the reinforcing and column bracket of Hanson '929 to provide the structure with added rigidity while also providing the structure with a means for precisely aligning the wood portion of the column with respect to the concrete portion of the column. The Examiner further indicated that although Hanson teaches positioning a concrete member between the depending arms of column bracket 40 that it would have been obvious to one having ordinary skill in the art at the time the invention was made that the modification of Wilbanks '160 by Hanson '929 would incorporate the wood column of Wilbanks '160 as opposed to the concrete column of Hanson '929. "Thus, the wood column (13) of WILBANKS would be positioned between the depending arms (42) of the bracket, as taught by HANSON." Office Action dated March 1, 2004, page 3, lines 12-14.

Without conceding that a motivation for combining the disclosure of Wilbanks '160 with the disclosure of Hanson '929 exists, Applicants agree with the Examiner's contention that if these two references were combined it would result in wood column 13 of Wilbanks '160 being positioned between the depending arms 42 of bracket 40 disclosed by Hanson '929. That is, tubular section 12 of Hanson '929 would be replaced by upstanding stud 13 of Wilbanks '160.

Contrary to the structure that results from a combination of the disclosure of Wilbanks '160 with the disclosure of Hanson '929, Claims 8-11, 23-26, and 35 of the present application all call for, *inter alia*, a concrete foundation column for planting in an area of earth, a proximal end of said foundation column protruding from said earth and a column bracket positioned adjacent a proximal end of a concrete column body of the foundation column, the column bracket comprising a base and a pair of depending arms extending from the base, the base positioned adjacent the proximal end of the concrete column body of the foundation column, the arms extending proximally from the proximal end of the concrete column body, the wood column positioned intermediate the arms and secured to the foundation columns via the column bracket. Clearly, the plain language of these claims defines the proximal end of the foundation column as an end that protrudes from the earth. These claims further specify that the column bracket includes a base that is positioned adjacent the proximal end of the concrete column body of the foundation column. That is, the claimed column bracket is attached to an end of a concrete foundation column that protrudes from the earth in which the foundation column is planted. Contrary to this claimed arrangement, bracket 40 of Hanson '929 is positioned within cement 18 and is not secured to a proximal end of cement 18 that protrudes from the earth in which cement 18 is planted. Because the combination of Wilbanks '160 and Hanson '929 does not yield Applicants' claimed invention, Applicants respectfully request withdrawal of 35 U.S.C. §103 rejection of Claims 8-11, 23-26 and 35.

Furthermore, Hanson '929 provides no suggestion or motivation for positioning bracket 40 adjacent a proximal end of a foundation column that protrudes from the earth in which the concrete foundation column is planted. Hanson '939 discloses that bracket 40 is utilized as a

spacer to allow cement to enter the hollow interior of lower tubular section 12 of a tower formed by three tubular sections 12, 14, and 16. With spacer 40 in place, concrete can flow into the hollow interior of lower section 12 when cement 18 is poured. Because Hanson '929 discloses use of bracket 40 as a spacer to allow poured cement to enter a hollow tube, there is absolutely no motivation to position bracket 40 with its base adjacent a proximal end of a concrete foundation column that protrudes from the earth in which it is planted and with its depending arms 42 extending proximally from a proximal end of a concrete foundation column that extends from the earth in which the concrete foundation column is planted, as called for in Claims 8-11, 23-26 and 35 of the present application . An exemplary embodiment of this claimed configuration is illustrated in Figure 2 of the present application. If bracket 40 of Hanson '929 was positioned with respect to cement 18 as called for in Claims 8-11, 23-26 and 35 of the present application, then depending arms 42 of bracket 40 would extend outwardly from cement 18 and bracket 40 could not be used to space tubular section 12 from the bottom of the hole in which concrete 18 is poured and would therefore not be operable to achieve its intended use of allowing poured concrete to enter tubular section 12. Clearly, Hanson '929 teaches away from the configuration called for in Claims 8-11, 23-26 and 35 of the present application.

Further to a recent telephone interview with the Examiner, Applicants herewith submit a number of laudatory articles describing the significant benefits attributed to the present invention as well as the commercial success Applicants have experienced with the present invention.

Claims 29, 30, and 31 have been amended to recite a concrete foundation column having a first transverse cross-sectional area and a wood column having a second transverse cross-sectional area, with the first cross-sectional area and the second cross-sectional area being substantially equal. Claims 32-34 all depend from one of Claims 29-31. Applicant respectfully submits that such a configuration is not disclosed or suggested in the art of record and that these claims are in condition for allowance. Referring, e.g., to Hanson '929, tubular section 12 clearly does not have a transverse cross-sectional area substantially equal to the transverse cross-sectional area of cement 18. Similarly in Wilbanks '160, upstanding studs 13 clearly do not have

a cross-sectional area substantially the same as the cross-sectional area of pilings 11 as illustrated in Figure 1 thereof. As illustrated in Figure 2 of the present application, the column structure utilized in the methods of Claims 29-34 is advantageous in that it allows for construction of a post frame building with concrete foundation column 26 positioned with a proximal end thereof protruding from the earth in which it is planted, while providing consistent spacing between columns 24, 26 and siding member 14.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested. Specifically Applicants respectfully submit that the application is in condition for allowance and such action is earnestly solicited.

In the event Applicant has overlooked the need for an extension of time or payment of fee, Applicant hereby petitions therefore and authorizes that any charges be made to Deposit Account No. 02-0385, BAKER & DANIELS.

If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 260/424-8000.

Respectfully submitted,

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CERTIFICATE OF MAILING

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NAME OF REGISTERED REPRESENTATIVE

SIGNATURE

June 29, 2004
DATE

FBi Buildings touts revolutionary concepts

REMINGTON, Ind. — For almost 50 years, FBi Buildings has been a leader in constructing high-quality structures.

Building on that tradition, the company is now offering an innovative concept it promises will revolutionize the construction industry. The product is called Perma-Column®, and it is the latest advance in post-frame construction technology, according to Jeff Neihouser, general manager at FBi Buildings.

The innovation is an optional upgrade on all FBi buildings. It provides a permanent, concrete column system.

"No other company in our area can offer this incredible technology," Neihouser said. "Perma-Columns are a significant technological advancement."

No wood goes in the ground, and it cannot rot. In addition, it is environmentally friendly and exceptionally strong.

Perma-Columns are made using the latest in pre-cast concrete technology. The result is concrete rated at 10,000 pounds per square inch, as opposed to the standard 3,500 psi.

Purdue University's department of civil and architectural engineering has tested the Perma-Column system and showed that, in comparative strength tests, the product substantially outperforms the industry-standard laminated column.

"Laminated columns are strong and well-suited for most purposes," Neihouser said. "But, for customers who want the ultimate in strength and durability, Perma-Columns are the way to go."

For decades, FBi has been at the forefront of post-frame construction technology. One of the first industry-changing innovations was FBi's use of square columns in place of round poles.

The rest of the industry soon followed suit.

FBi followed that with many other firsts, including being the first to use an all-metal door system, first to use Kynar 500-based finishes on a Galvalume substrate on the entire building and first to use stainless steel hex washer head screws.

"Many of these innovations wouldn't have happened without our close relationships with suppliers. We challenged them to do things that had never been done before," Neihouser said.

A prime example of this is the development of FBi Building's safety program. To prevent injuries from falls, FBi pioneered a new safety harness.

"Our fall protection system is unique in this industry," said Joe Ely, FBi Building's director of quality, supply chain and logistics. "We worked with suppliers to design a retractable cable system, similar to a seat belt system on a car."

Employees are harnessed to the cable, which has give when they move slowly. However, an abrupt lean or pull will cause the cable to retract.

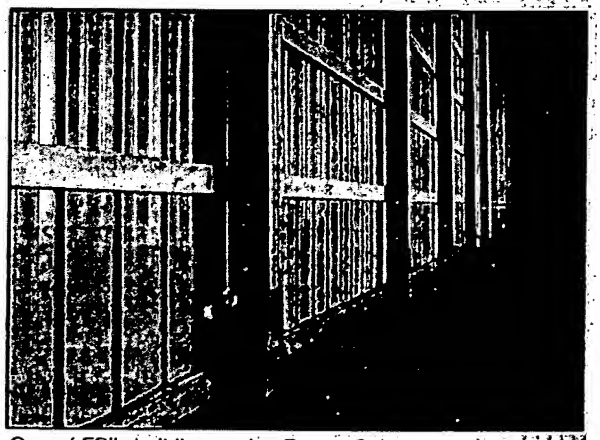
"It will catch (employees) if they fall," Ely said. "We want everyone to be safe. That is our commitment."

More people than ever before are buying post-frame buildings, thanks to decades of significant advancements such as these, Neihouser said.

"Years ago, post-frame buildings were known as agricultural pole barns, and that's pretty much what they were," he said. "But improved technology, components and construction methods have dramatically improved these buildings and broadened their appeal and value."

The company was founded in 1958, and its headquarters is located in Remington, Ind. It has constructed more than 15,000 equine, agricultural, commercial, industrial and retail buildings in Indiana and Illinois.

FBi also boasts 290 employees, including architects, engineers, construction professionals and support personnel.



One of FBi's buildings using Perma-Columns.